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Lisa Ostella and
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Lisa Liberi, Plaintiff
c/o Philip J. Berg, Esquire
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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:
8:11-cv-00485-AG (AJW)

**PLAINTIFFS RESPONSE IN
OPPOSITION TO DEFENDANTS,
ONLY TAITZ AND DEFEND OUR
FREEDOMS FOUNDATIONS, INC.
ANTI-SLAPP MOTION AND
MOTION TO DISMISS PURSUANT
TO FED. R. CIV. P. 12(b)(1) and
12(b)(6)**

Date of Hearing: June 13, 2011
Time of Hearing: 10:00 a.m.
Location: Courtroom 10D

**PLAINTIFFS RESPONSE IN OPPOSITION TO DEFENDANTS
ANTI-SLAPP MOTION and MOTION TO DISMISS**

COMES NOW Plaintiffs, Philip J. Berg, Esquire [hereinafter at times “Berg”]; Lisa Ostella [hereinafter at times “Ostella”]; Lisa Liberi [hereinafter at times “Liberi”]; Go Excel Global and Law Offices of Philip J. Berg and files the within Response in Opposition; Memorandum of Points and Authorities; and Declarations in Opposition to Defendants, Orly Taitz [hereinafter at times “Taitz”] and Defend our Freedoms Foundations, Inc. [hereinafter at times “DOFF”] Anti-SLAPP Motion and Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). In support hereof, Plaintiffs aver the following:

1. Taitz’s Motion is again **not** in compliant with this Court’s Local Rules [L.R.] in that she failed to use double spacing [L.R.’s. 11-3.2 and 11-3.6]; paragraphs are **not** properly numbered [L.R.11-3.2]; Taitz Memorandum of Points and Authorities exceeded the twenty-five [25] page limit [L.R. 11-6] ; and Taitz failed to give proper notice [L.R. 6-1].

2. Taitz has previously filed an Anti-SLAPP Motion, *See* this Court’s Docket Number 61 filed June 16, 2009; and several Motions to Dismiss pursuant to the *Fed. R. of Civ. P.* 12, which is completely improper. Further, Taitz and DOFF waived all their affirmative defenses by **not** timely pleading them and **not**

1 raising them in their previous *Fed. R. Civ. P.* 12 Motions to Dismiss and therefore,
2 they are precluded from doing so now. *See Fed. R. Civ. P.* 12(g)(2).

3
4 3. The California Anti-SLAPP statute, California Civil Code [*“Cal. Civ.*
5 *Code”*] §425.16 and the First Amendment of the United States Constitution does
6 **not** apply to speech which invades ones privacy; is false, slander, libel, and/or
7
8 defamation; constitutes Cyber-stalking, Cyber-harassment, and/or Cyber-bullying;
9 and/or violates any other protected right. Therefore, Taitz’s Motion fails.

10
11 4. Plaintiffs have a pending Motion for Leave to Amend their
12 Complaint, *Fed. R. Civ. P.* 12(b)(1) does **not** apply as full diversity exists; and
13
14 Plaintiffs have stated claims in which relief can be granted and therefore, Taitz and
15 DOFF’s Motion pursuant to *Fed. R. Civ. P.* 12(b)(1) and 12(b)(6) fails.

16 5. Plaintiffs **OBJECT** to Taitz and DOFF’s Exhibits attached to their
17
18 Motion as they are unauthenticated, hearsay, double and triple hearsay documents
19 in violation of the Federal Rules of Evidence [*“Fed. R. Evid.”*]. Further, Taitz and
20
21 DOFF’s Exhibits do **not** fall under any of the Exceptions outlined in the *Fed. R.*
22 *Evid.* and were filed to prejudice the Plaintiffs; therefore, Taitz and DOFF’s
23 Exhibits are inadmissible.

24 6. Plaintiffs Opposition is based upon their Opposition, the attached
25
26 Memorandum of Points and Authorities in Support hereof; Declaration of Philip J.
27
28 Berg, Esquire; Declaration of Lisa Liberi; and upon records on file with this Court

1 and such further oral and/or documentary evidence that may be presented at the
2 time of the Hearing.

3
4 7. For the reasons stated herein, Defendants Taitz and DOFF Anti-
5 SLAPP and Motion to Dismiss pursuant to *Fed. R. Civ. P.* 12(b)(1) and 12(b)(6)
6 must be denied. In addition, Plaintiffs seek Leave to File their First Amended
7 Complaint.
8

9 Respectfully submitted,

10
11
12 Dated: May 4, 2011

/s/ Philip J. Berg

13 Philip J. Berg, Esquire
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20 *Attorney in Pro Se and Counsel for*
21 *Plaintiffs*

22 Dated: May 4, 2011

/s/ Lisa Ostella

23 LISA OSTELLA and
24 GO EXCEL GLOBAL, Plaintiffs
25 c/o Philip J. Berg, Esquire
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1 Dated: May 4, 2011

/s/ Lisa Liberi

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